

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of HILL, Minors.

UNPUBLISHED

January 21, 2014

No. 316340

Wayne Circuit Court

Family Division

LC No. 04-429618-NA

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Before: SAAD, P.J., and CAVANAGH and K. F. KELLY, JJ.

PER CURIAM.

Respondent mother appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (c)(i), (c)(ii), (g), and (j). We affirm.

**I. FACTUAL BACKGROUND**

Respondent has a child protection history dating back to 2004, when the court authorized a petition regarding the oldest child due to physical abuse by respondent and domestic violence in the home. The court assumed jurisdiction over the child based on respondent's no contest plea, and the child was placed in relative care. The parents complied with their treatment plan and the court terminated its jurisdiction over the minor child in July of 2005.

In August 2009, the court authorized another petition involving respondent's two children. Their father had been killed and respondent was assaulted when men broke into the home seeking drugs and money. The children were at home at the time of the murder and assault. The court assumed jurisdiction over the children, and respondent was ordered to follow another treatment plan with the goal of reunification.

By October 2011, the children were returned to respondent's care. Several weeks after the children's return, the court authorized a supplemental petition, which alleged that respondent was physically abusing the children. The children were removed from respondent's care again and placed back in foster care, and respondent continued with her treatment plan. In January 2013, the court authorized a petition seeking termination of respondent's parental rights, alleging that respondent failed to substantially comply or benefit from her treatment plan. After a hearing, the court entered an order terminating respondent's parental rights.

## II. STANDARD OF REVIEW

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Only one statutory ground need be established to support termination of respondent's parental rights. *In re Foster*, 285 Mich App 630, 633; 776 NW2d 415 (2009). Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if the court also finds that termination of parental rights is in the best interests of the child. MCL 712A.19b(5). The trial court's decision is reviewed for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K). A decision is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

## III. ANALYSIS

The trial court did not clearly err in finding at least one statutory ground established by clear and convincing evidence. MCL 712A.19b(3)(b)(i) requires a finding that the child or a sibling has suffered physical injury or physical abuse, the parent's act caused the injury or abuse, and there is a reasonable likelihood that the child will suffer injury or abuse in the foreseeable future if returned to the parent. Respondent admitted "whooping" her older child and hitting her with a belt in her eye after the children were returned to her care in October 2011. She previously physically abused the child in 2004. Despite respondent's lengthy involvement with various services, respondent continued to display abusive tendencies. The foster care worker felt that respondent failed to make much progress in terms of understanding appropriate discipline and empathy toward her children while this latest case was pending, and that she had not internalized and benefited from her parenting classes. Respondent displayed a lack of patience, frustration, and anger during visits and maintained that her children needed "whippings" to address their behaviors. Workers expressed concern for the children's welfare if returned to respondent's care. The trial court did not clearly err in terminating respondent's parental rights under subsection(3)(b)(i).

Both MCL 712A.19b(3)(c)(i) and (c)(ii) require a finding that the parent was previously a respondent in child protection proceedings and 182 or more days had passed since the initial dispositional order. To establish subsection (3)(c)(i), petitioner must establish that the conditions that led to the adjudication continue to exist with no reasonable likelihood they will be rectified within a reasonable time. Subsection (3)(c)(ii) requires proof that other conditions exist that cause the child to come within the court's jurisdiction, the parent has received recommendations and a reasonable opportunity to rectify the new conditions but has not done so, and there is no reasonable likelihood the new conditions will be rectified within a reasonable time.

We find that termination was not warranted under subsection (3)(c)(i). The conditions that led to the 2009 adjudication were the murder and assault that occurred in the family home, which were attributable to the father's drug dealing. By the time of the termination hearing, these conditions no longer existed.

However, several conditions arose after the court assumed jurisdiction over the children. Respondent's abuse of her children resurfaced after the children were returned to her care in October 2011. At the hearing on the petition involving these new allegations, the court advised respondent to improve her coping skills, deal with her anger issue, and learn to deal with her children without abusing them and suggested that she work on this issue in therapy. Respondent was given more parenting classes, therapy sessions focusing on anger management, and the assistance of a parent aide. At a subsequent hearing, the court also recommended and ordered that respondent have mental health services because she was diagnosed with posttraumatic stress disorder, which the court felt was a contributing factor to her "losing her cool" with her children. However, respondent failed to explore mental health treatment for her diagnosis and had failed to make sufficient progress on the issue of child abuse by the time of the termination hearing. Another new condition that respondent failed to rectify was her instability in housing. This issue was addressed at numerous hearings and DHS offered much assistance and referrals to respondent. However, at the time of the hearing, respondent lacked suitable housing.

Respondent failed to rectify the conditions of child abuse and instability in housing, despite being given notice, a hearing, and reasonable opportunity to do so. Her failure to resolve these issues for many months suggested that she would not do so within a reasonable time. Thus, the trial court did not clearly err in terminating respondent's parental rights under subsection (3)(c)(ii).

The court also did not clearly err in finding that MCL 712A.19b(3)(g) (failure to provide proper care and custody and no reasonable expectation to do so within a reasonable time) and (j) (reasonable likelihood child will be harmed if returned to parent's home) had been established. Respondent failed to provide proper care and custody for her children when she permitted them to reside in a drug house, exposing them to great danger. She failed to provide proper care and custody to her oldest child when she improperly disciplined her in October 2011. Moreover, the evidence showed that respondent had not sufficiently complied with a treatment plan to ensure the children would be safe in her care. Despite the completion of four parenting classes, respondent had not benefited or internalized the concepts, and she had not benefited from therapy services. Both children were challenging and displayed difficult behaviors, and respondent lacked the parenting skills to enable her to cope with her special needs children. Respondent also lacked stability in housing and income while this matter was pending. Given all these circumstances, and the length of time the children were in care, the trial court did not clearly err in terminating respondent's parental rights under subsections (3)(g) and (3)(j).

In deciding a child's best interests, a court may consider the child's bond to his parent, parenting ability, the child's need for permanency, stability and finality, and the suitability of alternative homes. *In re Olive/Metts*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). The evidence established that respondent loved her children and they loved her. However, respondent failed to comply or benefit from a treatment plan designed to ensure the safe return of her children. Workers involved in this case were greatly concerned about the children's welfare if returned to respondent's care. The children were special needs children and required stability, much support, and permanence, which respondent was unable to provide.

Although respondent argues that she should have been given more time, this case was pending for almost four years. All appropriate resources and referrals had been made, but were unsuccessful. The foster care worker felt that affording additional time to respondent would not make any difference, given the length of time this matter was pending and respondent's lack of progress. All the workers involved in this case felt that termination of respondent's parental rights was in the children's best interests.

Given all these circumstances, the trial court did not clearly err in concluding that termination was in the children's best interests.

Affirmed.

/s/ Henry William Saad  
/s/ Mark J. Cavanagh  
/s/ Kirsten Frank Kelly